

deducting therefrom the value of the improvements which have been made upon said property during its possession by my said children, or the possession of any other person under them; and that upon such valuation, the whole shall be divided by the persons to be named as aforesaid, into eight equal shares or parts, whereof each of my children, viz. *George, Benjamin C., William, James, Sophia* now *Sophia Read*, and *Charles*, is to have one part, to them and their heirs for ever; and my grandchildren, *John Eager Howard*, the son of my deceased son *John*, and *James Howard McHenry*, the son of my daughter *Juliana McHenry*, now deceased, one share each to them and their heirs for ever; subject, nevertheless, as to the two last mentioned devisees, to the following conditions, viz. that if either of my said grandchildren *John Eager Howard*, or *James Howard McHenry*, should die before arriving at the age of twenty-one years, then the share of such grandchild so dying is to go and revert to such of my children and grandchildren as may be alive at the death of such grandchild, in equal parts to them and their heirs for ever."

"In cases where I may have given bonds of conveyance for real property which I may have sold or contracted to sell, it is my will and desire, that my executors should be, and they hereby are fully authorized to execute all necessary deeds to complete said contracts."

17th November, 1827.—BLAND, *Chancellor*.—It would seem, that the devisees of the residuum of the testator's real estate take in the manner and upon the terms specified, as tenants in common. The direction, that the Chancellor shall appoint the persons to make the division among them, amounts to no more than saying what the law had already said, that a partition of the estate so devised might be obtained by a bill in chancery. All concerned must be brought before the court, or have an opportunity of being heard; from which a majority of them would be precluded by the *ex parte* procedure proposed by this petition.

It may be inferred from this petition, that the parties concerned are anxious to have the estate of the deceased finally settled, and divided in the manner he has directed by his will. If so, a bill embracing the whole subject, and asking a partition, is the surest, cheapest, and most expeditious mode of proceeding that can be adopted. The defendants may answer at once, without waiting to be summoned; an account may be taken if called for; and a commission may issue, in the usual form, to divide the residue of